IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.220 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.General Pigment & Chemical Products P. Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 28TH MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances, the Tribunal was right in law in upholding the decision of the Commissioner of Income-tax(A) holding that the disallowance out of salary and perquisites to employee-directors should be u/s. 40(c) and not u/s. 40A(5) ? "

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)